

Ozone Season source's compliance account the CAIR NO<sub>x</sub> Ozone Season allowances allocated for the CAIR NO<sub>x</sub> Ozone Season units at the source, as submitted by the permitting authority in accordance with § 96.341(b), for the control period in 2015.

(c) By December 1, 2010 and December 1 of each year thereafter, the Administrator will record in the CAIR NO<sub>x</sub> Ozone Season source's compliance account the CAIR NO<sub>x</sub> Ozone Season allowances allocated for the CAIR NO<sub>x</sub> Ozone Season units at the source, as submitted by the permitting authority in accordance with § 96.341(b), for the control period in the sixth year after the year of the applicable deadline for recordation under this paragraph.

(d) By September 1, 2009 and September 1 of each year thereafter, the Administrator will record in the CAIR NO<sub>x</sub> Ozone Season source's compliance account the CAIR NO<sub>x</sub> Ozone Season allowances allocated for the CAIR NO<sub>x</sub> Ozone Season units at the source, as submitted by the permitting authority or determined by the Administrator in accordance with § 96.341(c), for the control period in the year of the applicable deadline for recordation under this paragraph.

(e) *Serial numbers for allocated CAIR NO<sub>x</sub> Ozone Season allowances.* When recording the allocation of CAIR NO<sub>x</sub> Ozone Season allowances for a CAIR NO<sub>x</sub> Ozone Season unit in a compliance account, the Administrator will assign each CAIR NO<sub>x</sub> Ozone Season allowance a unique identification number that will include digits identifying the year of the control period for which the CAIR NO<sub>x</sub> Ozone Season allowance is allocated.

[70 FR 25382, May 12, 2005, as amended at 71 FR 25394, Apr. 28, 2006]

EDITORIAL NOTE: At 71 FR 25395, Apr. 28, 2006, § 96.353(d) was amended; however, the amendment could not be incorporated due to inaccurate amendatory instruction.

**§ 96.354 Compliance with CAIR NO<sub>x</sub> emissions limitation.**

(a) *Allowance transfer deadline.* The CAIR NO<sub>x</sub> Ozone Season allowances are available to be deducted for compliance with a source's CAIR NO<sub>x</sub> Ozone Season emissions limitation for a control period in a given calendar year only if

the CAIR NO<sub>x</sub> Ozone Season allowances:

(1) Were allocated for the control period in the year or a prior year; and

(2) Are held in the compliance account as of the allowance transfer deadline for the control period or are transferred into the compliance account by a CAIR NO<sub>x</sub> Ozone Season allowance transfer correctly submitted for recordation under §§ 96.360 and 96.361 by the allowance transfer deadline for the control period.

(c)(1) *Identification of CAIR NO<sub>x</sub> Ozone Season allowances by serial number.* The CAIR authorized account representative for a source's compliance account may request that specific CAIR NO<sub>x</sub> Ozone Season allowances, identified by serial number, in the compliance account be deducted for emissions or excess emissions for a control period in accordance with paragraph (b) or (d) of this section. Such request shall be submitted to the Administrator by the allowance transfer deadline for the control period and include, in a format prescribed by the Administrator, the identification of the CAIR NO<sub>x</sub> Ozone Season source and the appropriate serial numbers.

(2) *First-in, first-out.* The Administrator will deduct CAIR NO<sub>x</sub> Ozone Season allowances under paragraph (b) or (d) of this section from the source's compliance account, in the absence of an identification or in the case of a partial identification of CAIR NO<sub>x</sub> Ozone Season allowances by serial number under paragraph (c)(1) of this section, on a first-in, first-out (FIFO) accounting basis in the following order:

(i) Any CAIR NO<sub>x</sub> Ozone Season allowances that were allocated to the units at the source, in the order of recordation; and then

(ii) Any CAIR NO<sub>x</sub> Ozone Season allowances that were allocated to any entity and transferred and recorded in the compliance account pursuant to subpart GGGG of this part, in the order of recordation.

(d) *Deductions for excess emissions.* (1) After making the deductions for compliance under paragraph (b) of this section for a control period in a calendar year in which the CAIR NO<sub>x</sub> Ozone Season source has excess emissions, the Administrator will deduct from the

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source's compliance account an amount of CAIR NO<sub>x</sub> Ozone Season allowances, allocated for the control period in the immediately following calendar year, equal to 3 times the number of tons of the source's excess emissions.

(2) Any allowance deduction required under paragraph (d)(1) of this section shall not affect the liability of the owners and operators of the CAIR NO<sub>x</sub> Ozone Season source or the CAIR NO<sub>x</sub> Ozone Season units at the source for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violations, as ordered under the Clean Air Act or applicable State law.

(e) *Recordation of deductions.* The Administrator will record in the appropriate compliance account all deductions from such an account under paragraphs (b) and (d) of this section and subpart III.

(f) *Administrator's action on submissions.* (1) The Administrator may review and conduct independent audits concerning any submission under the CAIR NO<sub>x</sub> Ozone Season Trading Program and make appropriate adjustments of the information in the submissions.

(2) The Administrator may deduct CAIR NO<sub>x</sub> Ozone Season allowances from or transfer CAIR NO<sub>x</sub> Ozone Season allowances to a source's compliance account based on the information in the submissions, as adjusted under paragraph (f)(1) of this section, and record such deductions and transfers.

[70 FR 25382, May 12, 2005, as amended at 71 FR 25395, Apr. 28, 2006]

## § 96.355 Banking.

(a) CAIR NO<sub>x</sub> Ozone Season allowances may be banked for future use or transfer in a compliance account or a general account in accordance with paragraph (b) of this section.

(b) Any CAIR NO<sub>x</sub> Ozone Season allowance that is held in a compliance account or a general account will remain in such account unless and until the CAIR NO<sub>x</sub> Ozone Season allowance is deducted or transferred under

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§ 96.354, § 96.356, or subpart GG of this part.

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EDITORIAL NOTE: At 71 FR 25395, Apr. 28, 2006, § 96.355 was amended; however, the amendment could not be incorporated due to inaccurate amendatory instruction.

## § 96.356 Account error.

The Administrator may, at his or her sole discretion and on his or her own motion, correct any error in any CAIR NO<sub>x</sub> Ozone Season Allowance Tracking System account. Within 10 business days of making such correction, the Administrator will notify the CAIR authorized account representative for the account.

## § 96.357 Closing of general accounts.

(a) The CAIR authorized account representative of a general account may submit to the Administrator a request to close the account, which shall include a correctly submitted allowance transfer under §§ 96.360 and 96.361 for any CAIR NO<sub>x</sub> Ozone Season allowances in the account to one or more other CAIR NO<sub>x</sub> Ozone Season Allowance Tracking System accounts.

(b) If a general account has no allowance transfers in or out of the account for a 12-month period or longer and does not contain any CAIR NO<sub>x</sub> Ozone Season allowances, the Administrator may notify the CAIR authorized account representative for the account that the account will be closed following 20 business days after the notice is sent. The account will be closed after the 20-day period unless, before the end of the 20-day period, the Administrator receives a correctly submitted transfer of CAIR NO<sub>x</sub> Ozone Season allowances into the account under §§ 96.360 and 96.361 or a statement submitted by the CAIR authorized account representative demonstrating to the satisfaction of the Administrator good cause as to why the account should not be closed.

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